

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 CARLOS ESCOBAR,

Case No. 2:18-cv-02036-APG-EJY

4 Plaintiff,

ORDER

v.

5 JAMES DZURENDA, et. al.,

6 Defendants.

7
8 This action began with a *pro se* civil rights complaint filed under 42 U.S.C. § 1983 by a
9 former state prisoner. On July 9, 2019, Magistrate Judge Foley ordered plaintiff Carlos Escobar
10 to file his updated address with this court within 30 days. ECF No. 4. The 30-day period has
11 expired, and Escobar has not filed his updated address or otherwise responded to the order.

12 District courts have the inherent power to control their dockets and “[i]n the exercise of
13 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.
14 *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may
15 dismiss an action, with prejudice, based on a party’s failure to prosecute an action, failure to
16 obey a court order, or failure to comply with local rules. *See Ghazali v. Moran*, 46 F.3d 52, 53-
17 54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d
18 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring
19 amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for
20 failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address);
21 *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply
22 with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack
23 of prosecution and failure to comply with local rules).

1 In determining whether to dismiss an action for lack of prosecution, failure to obey a
2 court order, or failure to comply with local rules, the court must consider several factors: (1) the
3 public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket;
4 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on
5 their merits; and (5) the availability of less drastic alternatives. *Thompson*, 782 F.2d at 831;
6 *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-61;
7 *Ghazali*, 46 F.3d at 53.

8 Here, the first two factors (the public's interest in expeditiously resolving this litigation
9 and my interest in managing the docket), weigh in favor of dismissal. The third factor, risk of
10 prejudice to the defendants, also weighs in favor of dismissal because a presumption of injury
11 arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or
12 prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth
13 factor, public policy favoring disposition of cases on their merits, is greatly outweighed by the
14 factors in favor of dismissal. Finally, a court's warning to a party that the failure to obey the
15 court's order will result in dismissal satisfies the "consideration of alternatives" requirement.
16 *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d at 1424. Judge
17 Foley's order requiring Escobar to file his updated address expressly stated: "It is further ordered
18 that, if Plaintiff fails to timely comply with this order, the Court shall dismiss this case without
19 prejudice." ECF No. 4 at 2. Thus, Escobar had adequate warning that dismissal would result
20 from his noncompliance with that order.

21 It is therefore ordered that this action is dismissed without prejudice based on Escobar's
22 failure to file an updated address in compliance with Judge Foley's order.
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1 It is further ordered that the application to proceed *in forma pauperis* (ECF No. 1) and the
2 motion for appointment of counsel (ECF No. 2) are denied as moot.

3 It is further ordered that the Clerk of Court shall enter judgment accordingly.

4 Dated: August 16, 2019.

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6 ANDREW P. GORDON
7 UNITED STATES DISTRICT JUDGE
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